

76th MEETING
OF THE
MARYLAND HEALTH CARE COMMISSION

Thursday, September 15, 2005

Minutes

Chairman Salamon called the meeting to order at 12:42 p.m.

Commissioners present: Crofoot, Ginsburg, Lucht, Moffit, Moore, Nicolay, Pollak, Risher, Row, Todd, and Toulson

Chairman Salamon thanked Commissioners Crofoot and Ginsburg for their years of outstanding service to the Commission, to Maryland, and to their fellow citizens. He introduced and welcomed Commissioner Nevins W. Todd, Jr., M.D., and also welcomed new staff members, Bruce Kozlowski, Deputy Director for Performance and Benefits; Rod Taylor, Chief, Facility Quality and Performance; and Carol Christmeyer, Chief, Special Projects.

ITEM 1.

Approval of the Minutes

Commissioner Robert Nicolay made a motion to approve the minutes of the July 21, 2005 meeting of the Commission, which was seconded by Commissioner Ernest Crofoot, and unanimously approved.

ITEM 2.

Update on Commission Activities

- Data Systems and Analysis
- Health Resources
- Performance and Benefits

Pamela W. Barclay, Deputy Director of Health Resources, announced the release of the 2005 *Maryland Ambulatory Surgery Provider Directory*, which was posted on the Commission's website at http://mhcc.maryland.gov/new_items.htm.

Copies of the *Update* were made available on the documents table at the meeting and on the Commission's website at: <http://mhcc.maryland.gov/mhccinfo/minutes.htm>.

Commissioner Crofoot expressed concerns regarding growing problems relating to health disparities in Maryland. Ben Steffen, Deputy Director of Data Systems and Analysis, noted that the Commission staff had incorporated analysis of health disparities in its studies regarding chronic conditions such as diabetes, obesity in children, and childhood asthma. Rex W. Cowdry, M.D., the Commission's Executive Director, observed that health disparities are a critical issue in Maryland and nationally and noted that they are driven by various factors, such as

socioeconomic status, income, geographic location, and cultural differences. Chairman Salamon suggested that staff increase its focus on health disparities, share the available data with the Legislature, and make recommendations to overcome these issues.

ITEM 3.

SMALL GROUP MARKET REFORM

Chairman Salamon announced that the next agenda item would be an informational presentation on small group market reform. He noted that the Commission would like to reform the small group plan to accomplish several goals, including: producing more affordable options for Marylanders; encouraging the 58% of small employers who currently do not participate in the Comprehensive Standard Health Benefit Plan (CSHBP) to join along with their employees, especially the young and the healthy; encouraging the insurers who used to participate in the small group market to return to the market so that we have more lively competition; and to create a structure to provide insurers the flexibility for creativity in benefit design and pricing, ensuring that employers and employees have affordable options from which to choose. Chairman Salamon said that Mercer, the Commission's actuary, projects that the average cost of the CSHBP will be about 98% of the affordability cap in 2005. He also said that Mercer projects the average cost to be about 103.3% of the affordability cap in 2006. Staff would discuss short term options to modify the plan in order to keep the average cost of the CSHBP under the affordability cap. Chairman Salamon noted that long term strategies, which would require legislative action, would also be discussed. He asked Dr. Cowdry, Bruce Kozlowski, and Janet Ennis to present the potential options for small group market reform, to be followed by Commission discussion.

Janet Ennis, Chief, Benefits Analysis, provided the Commission with historical background information on the development of the CSHBP. She also provided information on the current benefit design, as well as the goals of small group reform. Next, Mr. Kozlowski discussed three potential options to be considered to modify the plan benefits in order to comply with current law. He said that Option I would maintain all current benefits within the CSHBP, but would increase the deductibles for prescriptions from \$250 to \$500 per person and reduce the annual maximum coverage for the pharmacy benefit to \$2,000 per year. He said the estimated premium savings for Option I would be about 4.7 percent. Mr. Kozlowski said that Option II would transition the pharmacy benefit from the current CSHBP and add a pharmacy discount card to the Plan. He noted that this option would create a market environment for increased competition among insurers by allowing for greater creativity in the benefit design, more competitive pricing, and more participating insurers. Option II would also allow for greater employer/employee choice. The estimated premium savings for Option II would be about 8.8 percent. Turning to Option III, Mr. Kozlowski said that Option III would modify the current rigid prescriptive design of the CSHBP and significantly reduce the cost of the base plan. He said that this option would provide a more price sensitive option for the 58% of small employers who do not currently participate in the CSHBP, mainly due to cost. He said that Option III would create a market environment for increased competition among insurers, as well as provide employers and employees with more benefit choices and cost options. Mr. Kozlowski noted that if the Commission adopts any of these proposed options, then regulatory action, which would be effective July 1, 2006, would be required. A discussion ensued and the Commission members agreed that it is a very difficult task to keep policies under the affordability cap, as mandated by the Commission's statute.

Dr. Cowdry provided the Commission with possible long-term strategies. He said that participation in the CSHBP has stagnated and that 58% of small group employers do not participate in the plan. He noted that cost is the most frequent reason given for their lack of

participation. Because the small group market uses modified community rating, there is a tendency for small group plans to attract progressively higher health risks on average and thus experience progressively higher premiums. Dr. Cowdry said that limiting entry into the CSHBP by self-insured groups, modifying the community rating structure, establishing reinsurance or risk transfer pools, establishing a separate high risk pool with active health management, and establishing a state-wide purchasing pool could be possible long term strategies. Dr. Cowdry noted that all of the long term strategies would require legislative action. After a lengthy discussion, Chairman Salamon noted that there would be a series of town meetings held around the state during the month of October to receive input from all interested Marylanders before any action is taken by the Commission.

ITEM 4.

PRESENTATION: REPORT OF THE RESEARCH PROPOSAL REVIEW COMMITTEE - Review of the Scientific Merit of the Atlantic C-Port Trial: Proposed Non-Primary PCI Study (Version 2.5, March 22, 2005) No Commission Action Required

Chairman Salamon said that the State Health Plan allows the Commission to issue a waiver of certain Certificate of Need requirements in order to conduct a research project studying non-primary angioplasty at sites without on-site cardiac surgery. He said that Thomas Aversano, M.D., and colleagues submitted a study to compare the outcomes of non-primary angioplasty at hospitals with and without on-site cardiac surgery. An expert committee was appointed to review the proposal and provide advice to the Commission on the proposed study. Chairman Salamon asked Dr. Cowdry to summarize the Report of the Research Proposal Review Committee. Dr. Cowdry discussed the requirements for the proposed non-primary PCI study, and pointed out various policy issues raised by the proposal and the review. He added that as Dr. Aversano and his colleagues had withdrawn the proposal prior to consideration by the Commission, no action on the Report of the Research Proposal Review Committee was required.

ITEM 5.

Petition for Declaratory Ruling, Dimension Health Corporation: Impact of Supplement 4 to the State Health Plan for Facilities and Services: Acute Care Hospital Services (COMAR 10.24.10) on the Status of Bowie Hospital CON

Dr. Cowdry announced that, at the request of Dimensions Health Corporation, consideration of this matter was postponed.

ITEM 6.

- **Washington Adventist Surgery Center**, Application for Certificate of Need for 4-Operating Room Freestanding Ambulatory Surgery Center, Docket No. 04-15-2152, Reviewer's Recommended Decision

Commissioner Robert Moffit, the Commission's Reviewer in this matter, said that he analyzed the proposed project's compliance with the review standards in COMAR 10.24.11, the State Health Plan for Ambulatory Surgical Services, and the Certificate of Need review criteria at COMAR 10.24.01.08G(3)(a)-(f) and found that WAH's proposed project was consistent with the applicable standards and criteria, except that the project places two sterile procedure rooms along with four operating rooms on the sterile corridor of the facility, blurring any distinction between the operating room and procedure room complement proposed and effectively establishing these

two rooms as operating rooms which could be used for certain types of open surgical procedures as long as the interior of the rooms was appropriately equipped and furnished. For this reason, he recommended that the Commission order that, upon Adventist HealthCare's timely filing of certain documents, a Certificate of Need be issued for the proposed Washington Adventist Surgery Center. This recommendation was contingent upon the Commission's receipt, by November 18, 2005, of: (1) an architectural design plan for the project that shows only four sterile rooms for surgical procedures, the four proposed operating rooms, and that shows the two procedure rooms outside the sterile corridor and established as non-sterile rooms; and (2) a project budget that reflects any changes in the cost of the project associated with these design changes, and does not exceed \$3,570,621. No Exceptions were filed in this matter. Commissioner Moffit made a motion that the Commission accept his recommendation to approve the application of Adventist HealthCare, d.b.a. Washington Adventist Hospital (WAH), that a Certificate of Need to establish a freestanding ambulatory surgical center to be called Washington Adventist Surgery Center, with four operating rooms and two procedure rooms would issue upon receipt of the document indicated earlier. The facility will be located on the third floor of a medical office building to be constructed on Flower Avenue, in Silver Springs, Maryland, approximately one mile from the WAH campus. Commissioner Moffit's motion was seconded by Commissioner Crofoot, and following discussion, was unanimously approved.

ACTION: Washington Adventist Surgery Center, Application for Certificate of Need for 4-Operating Room Freestanding Ambulatory Surgery Center, Docket No. 04-15-2152, Reviewer's Recommended Decision is hereby APPROVED.

- **Children's Hospital National Medical Center, Expansion of Children's Outpatient Center at Montgomery County, Docket No. 04-15-2151, Reviewer's Recommended Decision**

Commissioner Moffit served as the Commission's Reviewer in this matter as well. He said that the proposed two operating room facility would be located in leased space at 9850 Key West Avenue in Rockville, Montgomery County, Maryland. Commissioner Moffit said that he had analyzed the proposed project's compliance with the review standards in COMAR 10.24.11, the State Health Plan for Ambulatory Surgical Services, and the Certificate of Need review criteria at COMAR 10.24.01.08G(3)(a)-(f). He found that the proposed project is consistent with the applicable standards and criteria and, for the reasons stated in his proposed decision, recommended that the application for Certificate of Need for Children's National Medical Center to operate a two operating room facility at Children's Outpatient Center at Montgomery County, thereby creating a health care facility as defined by Maryland law, be approved. An existing facility with a single operating room currently operates at that location. As no Exceptions were filed in this matter, Commissioner Moffit recommended that the Certificate of Need be approved by the Commission. Commissioner Nicolay seconded the motion, and following discussion, it was unanimously approved.

ACTION: Children's Hospital National Medical Center, Expansion of Children's Outpatient Center at Montgomery County, Docket No. 04-15-2151, Reviewer's Recommended Decision is hereby APPROVED.

ITEM 7.

FINAL ACTION: COMAR 31.11.12 – Technical Corrections to the Limited Benefit Plan

Jane Pilliod, Assistant Attorney General, presented minor technical corrections to two provisions of the Limited Benefit Plan. She said that one correction was required because the benefit for facility charges for outpatient mental health and substance abuse had been omitted from the cost-sharing groups and that the other amendment corrected an incorrect cross reference. As no comments on the proposed technical corrections had been received, she requested final action on the proposed regulatory changes. Commissioner Crofoot made a motion that the Commission approve the regulations for final action, which was seconded by Commissioner Debra Risher, and was unanimously approved.

FINAL ACTION: COMAR 31.11.12 – Technical Corrections to the Limited Benefit Plan are hereby APPROVED.

ITEM 8.

ACTION: Final Report on the Maryland Trauma Physician Services Fund

Ben Steffen presented a summary of the draft final report. He said that the Maryland Health Care Commission and the Health Services Cost Review Commission are required to report to the Maryland General Assembly on the status of the Maryland Trauma Physician Services Fund in September of each year. The 2005 report describes the status of the Fund at the close of the 2005 Fiscal Year, estimates spending in future years under current law, and describes possible options for expanding disbursements or slowing collection in future. Following discussion, Commissioner Crofoot made a motion that the Commission approve the release of the report, which was seconded by Commissioner Larry Ginsburg, and unanimously approved by the Commission. Commissioner Andrew N. Pollak, M.D. did not vote on the matter as he had requested to be recused.

ACTION: Release of the Final Report on the Maryland Trauma Physician Services Fund is hereby APPROVED.

ITEM 9.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:31 p.m. upon motion of Commissioner Crofoot, which was seconded by Commissioner Ginsburg, and unanimously approved by the Commissioners.